THE HON'BLE SRI JUSTICE C.V. RAMULU

Wednesday, the 8th day of August,2007

W.P.No.22833 of 1998

Between:-

S.V. Satyanarayana … Petitioner

and

The Assistant General Manager,
State Bank of India,
Zonal Office,
Vijayawada-520 010 … Respondent

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.22833 of 1998

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus directing the respondent to appoint the petitioner on compassionate grounds in any suitable post in the Bank and refund the amount of Rs.1,43,170/- collected by the Bank on a false premise.

It appears, the father of the petitioner while working as a Clerk in the respondent-Bank died in harness on 15-6-1993. Immediately, mother of the petitioner made a representation to the Bank to appoint him on compassionate grounds stating that the family is in desperate condition. After the death of his father, petitioner has to look after his mother, sister of marriageable age and also the grand parents. Further, they do not have any moveable or immovable properties. Since there was no response to any of the representations submitted by the mother of the petitioner on the issue, she was compelled to address the Reserve Bank of India, New Delhi, which, in turn forwarded the said representation to their Regional Office at Hyderabad. The Regional Office had informed by letter dated 3-11-1995 that the representation was forwarded to the Chief General Manager of the respondent-Bank at Hyderabad. On 27-10-1995, the General Manager (Operations) had informed the petitioner that the Deputy General Manager, Vijayawada Zonal Office was advised to look into the matter. After a long wait, finally, the Zonal Office at Vijayawada informed that the competent authority had declined to

appoint the petitioner on compassionate grounds. No reasons are ascribed to such a decision. According to the petitioner, none of his family members are working either in the State Bank of India or elsewhere and he is the sole bread-winner of the family after the unfortunate death of his father. They are living in utter poverty and are unable to meet both the ends. His father's salary was the only source of livelihood to the family.

That apart, the respondent-Bank had collected from the petitioner an amount of Rs.1,43,170/- on the premise that his father had caused loss to the Bank and the family was orally promised that if the said loss caused by his father is remitted, the Bank would consider appointment of the petitioner, on compassionate grounds. As they were in desperate condition, the family met the said unreasonable demand. The said amount was paid under protest. After the amounts were deposited, the appointment was declined. No enquiry of any kind was held and at any rate, the petitioner and his family members are not aware of any domestic enquiry having been held for the alleged loss caused by his deceased father. It was informed to them about the so-called loss only after the death of his father. Apart from that, they have also paid an amount of Rs.40,000/- in addition to the amount of Rs.1,43,170/-. Collecting such amount without conducting any enquiry, particularly against a dead person, is arbitrary and illegal. Hence, this Writ Petition.

Though no counter is filed, learned counsel for the respondent-Bank – Smt. Uma – strenuously contended that the father of the petitioner caused loss to the Bank; therefore, the petitioner as well as other family members are equally responsible for redeeming the loss caused by the deceased-employee. It is the petitioner, who came forward for making good of the loss caused by his father. There was

no force or promise made by the respondent for appointing the petitioner on compassionate grounds, if the amount of loss caused by the deceased employee is deposited. No such demand was ever made by the respondent. Petitioner and their family members deposited the said amount on their own.

Heard both sides and perused the entire material made available on record.

Petitioner was informed that the respondent was advised by the competent authority that his case for appointment in the Bank on compassionate grounds, was declined. In fact, it is the case of the respondent that since the petitioner has obtained some loan for establishing a fancy shop, it must be deemed that the petitioner was able to maintain himself; whereas it is the contention of the learned counsel for the petitioner that for paying the demanded amount of Rs.1,43,170/-, under a fond hope of getting the employment, he had disposed of the shop and paid the amount to the Bank, though the Bank is not entitled to recover such amount. From the letter addressed by the Chief Manager, State Bank of India, Nuzvid Branch dated 18-11-1993 to the mother of the petitioner, it is seen that she was advised that her husband (father of the petitioner) while working as a Clerk at Nuzvid Branch has committed fraud in pension payments-Government accounts and the loss involved amounts to Rs.1,43,170/- and they shall be glad, if she arranges for the amount of loss sustained by the Bank at an early date. In this regard, it may be necessary to notice that it is a fact that no notice of any kind was issued during the life time of the father of the petitioner nor any charge sheet was issued nor an enquiry was conducted nor any conclusions were reached by any of the authorities holding that the father of the petitioner had caused loss to the Bank and, therefore, the said amount is liable to be

recovered. In fact, the respondent made allegations against a dead person and since the petitioner was in desperate condition and taking advantage of the same, sought to recover the amount, could be, by making an oral promise that the petitioner could be accommodated in any suitable post on compassionate grounds. This cannot be ruled out in a case of this nature. Nonetheless, I am of the opinion that the respondent has no business to recover the amount of Rs.1,43,170/- and also Rs.40,000/- purported to have been paid by the petitioner thereafter, in the guise of redeeming the loss caused by the father of the petitioner. Therefore, the respondent is directed to refund the amount of Rs.1,43,170/- and also the amount of Rs.40,000/- purported to have been paid by the petitioner along with interest at 12% per annum from the date of deposit till the date of payment. Further, the refund of the entire amount along with interest shall be made within a period of one month from the date of receipt of a copy of this Order.

Insofar as the compassionate appointment is concerned, there is no detailed order passed by the respondent except saying that they were advised by the competent authority to say that the competent authority is declined to consider the case of the petitioner for compassionate appointment. Under these circumstances, the respondent is directed to reconsider the case of the petitioner for appointment to any suitable post on compassionate grounds, after hearing him, and pass appropriate orders, within a period of two months from the date of receipt of a copy of this Order and communicate the same to the petitioner.

With the above directions, the Writ Petition is disposed of. No order as to costs.

08-8-2007

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